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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/785,349

02/24/2004

Antoine LaFont

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8749

490 7590 10/04/2007
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EXAMINER

SCHILLINGER, ANN M

ART UNIT

PAPER NUMBER

3738

MAIL DATE

DELIVERY MODE

10/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,349

Applicant(s)

LAFONT ET AL.

Examiner

Ann Schillinger

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-9, 14 and 18 is/are pending in the application.
- 4a) Of the above claim(s) 9, 14 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Froix (US Pat. No. 5,163,952). Froix discloses the following of claim 1: a method of treating a bodily vessel comprising the steps of: inserting a catheter (37) having distal portion (right end) into a body vessel (31), the distal portion having an expandable region (39), an expandable stent (11) being disposed about at least a portion of the expandable region (see Figures 4-6); advancing the distal portion to a desired location in a bodily vessel; delivering the stent to the desired location by expanding the expandable region from an unexpanded diameter to an expanded diameter; delivering heat to the stent during the expansion of the expandable region (col. 9, line 58 through col. 10, line 22).

Froix discloses the limitations of claims 4 and 5 in col. 9, line 58 through col. 10, line 22.

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Claims 1, 4, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Lashinski (US Pat. No. 6,579,305). Lashinski discloses the following of claim 1: a method of treating a bodily vessel comprising the steps of: inserting a catheter (22) having distal portion (right end) into a body vessel (100), the distal portion having an expandable region (27), an expandable stent (28) being disposed about at least a portion of the expandable region (see Figures 2-3B); advancing the distal portion to a desired location in a bodily vessel; delivering the stent to the desired location by expanding the expandable region from an unexpanded diameter to an expanded diameter; delivering heat to the stent during the expansion of the expandable region (col. 4, lines 43-64).

Lashinski discloses the limitations of claims 4 and 5 in col. 4, lines 43-64.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Froix or Lashinski in view of Burmeister et al. (US Pat. No. 6,451,052). Froix and Lashinski disclose the limitations of claim 6 as described above, however, they do not disclose constructing the stent of stainless steel. Burmeister et al. teaches constructing the stent of stainless steel in col. 8, line 41 through col. 9, line 14 for the purpose of utilizing the material's resiliency. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the stent of stainless steel in order to utilize the material's resiliency.

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Froix discloses the limitations of claims 7 and 8 in col. 9, line 58 through col. 10, line 56.

Lashinski discloses the limitations of claims 7 and 8 in col. 4, lines 43-64, and col. 5, lines 7-36.

Response to Arguments

Applicant's arguments, see Appeal Brief, filed 6/25/2007, with respect to the rejection(s) of claim(s) 1, 2, and 4-8 under 35 USC § 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Froix and Gianturco.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Schillinger whose telephone number is (571) 272-6652. The examiner can normally be reached on Mon. thru Fri. 9 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ann Schillinger
September 26, 2007

A. Stewart
ALVIN J. STEWART
PRIMARY EXAMINER